

REMARKS

The office rejected claims 1-7 and 19-20 under 35 U.S.C. §§ 102(a), 102(e) or 103(a) over Rosier (U.S. 7,084, 293). In addition, the office rejected claims 1-7 and 19-20 under 35 U.S.C. §§ 102 (b) or 103(a) over Lu (U.S. 6,380,421). Finally, the office rejected claims 1-7 and 19-20 under the judicially created doctrine of obviousness-type double patenting over claim 8 of U.S. Application No. 10/577,681 and claim 8 of U.S. Application No. 10/576,679.

The disclosure relates to a system which is suitable as a catalyst for the hydrocyanation of olefinically unsaturated compounds. The system contains Ni(0), a compound which complexes Ni(0) as a ligand, a Lewis acid and a compound of the formula MR_n , where the Lewis acid and the compound of the formula MR_n are different, where M is Al or Ti and R is a monovalent alkoxy radical. Applicants submit that neither Rosier or Lu teaches or suggests the specific combination of a Lewis acid and a compound the formula MR_n where these two compounds are different. Accordingly, the claimed system would not have been rendered unpatentable under 35 U.S.C. § 102 or 35 U.S.C. § 103(a) over Rosier or Lu.

Rosier describes a process of hydrocyanation of ethylenically unsaturated organic compounds. The process uses organophosphate ligands (columns 3 to 5, nickel (0) (column 6) and Lewis acids (column 8). Rosier generically lists a number of possible Lewis acids including titanium isopropylate (column 8, line 40). Rosier only describes combining the Lewis acids, zinc chloride and stannous chloride. Although Rosier describes using more than one Lewis acid, Rosier only exemplifies one combination thus leaving millions of possible combinations with the generic listing of Lewis acids given in Rosier. However, Rosier does not teach or suggest the specific recitation of a Lewis acid and an aluminum or titanium alkoxide where the Lewis acid and the alkoxide are different. Applicants submit that this specific combination is not taught or suggested by Rosier. In addition, Applicants submit that one skilled in the art would not have predicted that this combination would have given the results outlined in the examples of the specification (see MPEP 2143(A)).

Accordingly, Rosier does not teach or suggest all the recitations of the claimed system, and therefore, the claimed system would not have been anticipated or obvious over Rosier. As such, applicants respectfully request that the office withdraw the rejection of claims 1-7 and 19-20 under 35 U.S.C. §§ 102(a), 102(e) or 103(a) over Rosier.

Lu describes hydrocyanation reaction with multidentate phosphite ligands and zero valent nickel compounds (abstract and column 7). Lu also describes the use of Lewis acid promoters (columns 7 and 8). Although Lu describes titanium and aluminum halide alkoxide compounds (eg. $\text{ClTi}(\text{OiPr})_3$, column 7), Lu does not teach or suggest titanium or aluminum alkoxide compounds (i.e. compounds of formula MR_n as recited in claim 1). In addition, like Rosier, Lu does not teach or suggest using the specific combination of a Lewis compound and a compound of the formula MR_n where the Lewis acid and MR_n are different. Accordingly, Lu does not teach or suggest all the recitations of the claimed system, and therefore, the claimed system would not have been anticipated or obvious over Lu. As such, applicants respectfully request that the office withdraw the rejection of claims 1-7 and 19-20 under 35 U.S.C. §§ 102(b) and 103(a) over Lu.

With regard to the double patenting rejections of claims 1-7 and 19-20 over U.S. Application Nos. 10/577,681 and 10/576,679, applicants note that these applications were filed on 4/28/2006 and 4/21/2006, respectively. Since these applications were filed after this application and the claims in these applications are still pending, applicants request that the office withdraw these rejections if these rejections are the only remaining rejections (see MPEP § 804 (I)(1)).

Finally, applicants request that should the elected claims be found allowable, that the office extend its search to non-elected species (i.e. in addition to formula (1)).

In light of the discussion above, Applicants submit that the application is in condition for allowance. Favorable reconsideration is respectfully requested.

Application No.: 10/551,139

Docket No.: 12810-00135-US1

In the event the Examiner believes an interview might serve in any way to advance the prosecution of this application, the undersigned is available at the telephone number noted below.

The Office is authorized to charge any necessary fees to Deposit Account No. 22-0185.

Please charge our Credit Card in the amount of \$120.00 covering the fee set forth in 37 CFR 1.136(a). The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 22-0185, under Order No. 12810-00135-US.

Dated: June 11, 2008

Respectfully submitted,

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